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and Spine Solutions, Inc.*

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO**

CALVIN TIMBERLAKE and)	CASE NO. CV 08 80067MISC
KAREN TIMBERLAKE,)	
Plaintiffs,)	CASE NO. 6-08-CV-0004 (S.D.
)	Tex.)
vs.)	
)	[PROPOSED] ORDER
SYNTHES SPINE COMPANY, L.P.)	GRANTING WITHDRAWAL
)	WITHOUT PREJUDICE OF
Defendant)	PLAINTIFFS' NON-PARTY
)	SUBPOENA ON JAMES
)	ZUCHERMAN, M.D.

ORDER

Plaintiffs Calvin Timberlake and Karen Timberlake and Defendant Synthes

1 Spine Company, L.P. (hereinafter collectively "the Parties") entered into a
2 Stipulation of Agreement Regarding Plaintiffs' Subpoena for Records, which was
3 filed with this Court on April 24, 2008 along with the Parties' Consent Motion for
4 Stay of These Proceedings. Pursuant to the Parties' Stipulation of Agreement
5 Regarding Plaintiffs' Subpoena for Records, Plaintiffs agreed to withdraw any
6 non-party subpoenas issued, but not served upon the non-party at the time the
7 Stipulation of Agreement was executed. Accordingly, the parties request
8 withdrawal of the non-party subpoena issued upon James Zucherman, M.D.,
9 without prejudice to refile, as it has not been served upon non-party James
10 Zucherman, M.D. Further, the Parties have agreed that any previously imposed
11 deadlines to Reply to Plaintiffs' Response to Synthes' Motion to Quash the
12 Subpoena, without waiving any objections by Synthes' to the subpoena, are
13 hereby moot.

14 Considering the withdrawal of the of the non-party subpoena issued upon
15 James Zucherman, M.D., it is now unnecessary for the Court to go forward with
16 the motion hearing scheduled for July 3, 2008 or to rule on the pending Motion to
17 Quash that subpoena.

18 The Parties have agreed to confer in a good faith attempt to define the
19 parameters of a reissued subpoena, without prejudice to the Plaintiffs' ability to
20 refile the subpoena in a manner they consider to be consistent with the provisions
21 of Fed. R. Civ. Pro. 45, and without prejudice as well to the rights of the
22 Defendants, Synthes Spine Company, L.P., et. al, and any third parties
23 subpoenaed within the jurisdictional confines of the United States District Court
24 for the Northern District of California to take such action, including but not
25 limited to objections under Fed. R. Civ. P. 45(c) and (d) to object to the scope of
26 production to any reissued subpoena.

1 It is ORDERED that the subpoena that is currently the subject of
2 consideration by this Court issued to James Zucherman, M.D. be and hereby is
3 considered withdrawn by the Plaintiffs in accordance with the provisions of this
4 Order, without prejudice to refile as set forth above and that the hearing
5 scheduled for July 3, 2008 will no longer go forward.

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7 SIGNED this _____ day of _____, 2008.

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11 JUDGE OF THE US DISTRICT COURT
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